

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
RUPERT AND KAUFMAN,
Plaintiffs,

-v-

D&R TRANSPORTATION,
Defendant.

-----x

File Date: APR 02 2008

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: APR 02 2008

No. 07 Civ. 5788 (LTS)(KNF)

ORDER¹

On March 14, 2008, the Court held a conference in the above-captioned action and in related action 07 Civ. 10618, D'Ancona v. D&R Transportation. Counsel for plaintiff D'Ancona, counsel for Defendant D&R Transportation and new counsel for plaintiff Kaufman (Myron Lasser, by Martin J. Birn) appeared at the conference. That same day, the Court issued an order requiring plaintiffs' current counsel of record, Mr. Joseph Tandet, to serve and file with the Court a statement as to whether he is willing and able to continue to represent plaintiff Rupert in the prompt and timely prosecution of this case. The Court received a response from Mr. Tandet dated March 26, 2008, a copy of which is attached to this Order, indicating that Mr. Tandet is willing and able to continue representing plaintiff Rupert and that he would consult with new counsel for plaintiff Kaufman.

The Court has also received an undated letter that was faxed to Chambers on April 1, 2008, from the self-identified new counsel for Kaufman requesting that this action be dismissed as to Kaufman, without prejudice, pursuant to Federal Rule of Civil Procedure 4(m). This ex parte request will not be considered by the Court until the requesting counsel submits evidence of a proper substitution and that the request has been served on the other parties to the action. (See S.D.N.Y.

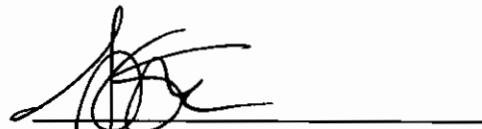
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The ECF system provides notice of the entry of this Order to each party that has both entered an appearance in this case and registered with ECF. The ECF-registered attorneys are responsible for providing notice to any co-counsel whose e-mail addresses are not reflected on the ECF docket for this case, and Plaintiff's counsel, upon receiving notice of this Order, is hereby ordered to fax or otherwise deliver promptly a copy to all parties who are not represented by ECF-registered counsel. A certificate of such further service shall be filed within 5 days from the date hereof. Counsel who have not registered for ECF are ordered to register immediately as filing users in accordance with the Procedures for Electronic Case Filing.

Local Civil Rules 1.4 and 6.1(d) and paragraphs 1.A and 2.D of the Individual Practices Rules of the undersigned.)

Furthermore, it appears from the docket that neither Plaintiff has served the Defendant in this action. In light of the conference scheduled in this action for **April 10, 2008, at 12:30 p.m.**, at which counsel for all the parties in the above-captioned action and in the related action are directed to appear, the Court directs new counsel for plaintiff Kaufman to complete the necessary requirements for substitution without further delay and **ORDERS** that Mr. Tandet show cause at the April 10, 2008, conference as to why the action that he instituted (07 Civ. 5788) should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m) as to plaintiff Rupert for failure to timely serve the Defendant in this action.

Dated: New York, New York
April 1, 2008



LAURA TAYLOR SWAIN
United States District Judge

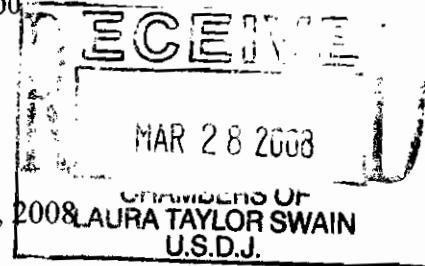
A. JOSEPH TANDET

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NEW YORK, NEW YORK 10022

TEL (212) 486-9494
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March 26, 2008



Via Mail

Honorable Laura Taylor Swain
United States District Judge
500 Pearl Street
New York, NY 10007

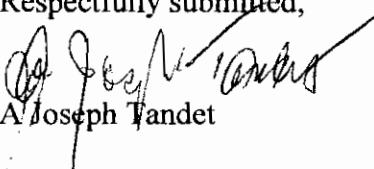
Re: D'Ancona Vs. D&R Transport
07 Civ. 5788 (LTS)

Dear Judge Swain,

In addition to my letter of March 12, 2008 regarding the above matter, and in accordance with the Court's request dated March 14, 2008, I am stating that I am willing and able to continue to represent Plaintiff Marie Rupert in the prompt and timely prosecution of this case. And I will consult with new counsel for Plaintiff Doris Kaufinan as to the question of service of an amended complaint.

I trust this satisfies the Court's request.

Respectfully submitted,


A. Joseph Tandet